CHAPTER 34

CHARLOTTESVILLE ZONING CODE

MODULE 3 DRAFT

May 23, 2023

NOTE: Modifications to the draft text are ongoing based on legal review.

Page Left Intentionally Blank

ARTICLE 5.

SUBDIVISION AND DEVELOPMENT PLAN STANDARDS

Div. 5.1. General Provisions 5-3
5.1.1. Applicability 5-3
5.1.2. Plat and Plan Requirements 5-4
5.1.3. Phasing of Public Improvements 5-4

Div. 5.2. Subdivision 5-5
5.2.1. Lots 5-5
5.2.2. Easements 5-5
5.2.3. Street Names 5-6
5.2.4. Subdivision Monuments 5-6
5.2.5. Tax Verification 5-6

Div. 5.3. Blocks and Access 5-7
5.3.1. Intent 5-7
5.3.2. Blocks 5-7
5.3.3. Site Access 5-11

Div. 5.4. Streets 5-13
5.4.1. Intent 5-13
5.4.2. Applicability 5-13
5.4.3. General Standards 5-13
5.4.4. Streetscape Standards 5-14

Div. 5.5. Utilities 5-18
5.5.1. Sanitary Sewer and Water Supply 5-18
5.5.2. Natural Gas 5-18
5.5.3. Stormwater Management and Drainage Facilities . . 5-18
5.5.4. Water for Fire Protection 5-18
5.5.5. Underground Utilities 5-19

Div. 5.6. Fees and Dedications 5-20
5.6.1. Off-Site Improvement Contributions 5-20
5.6.2. Dedication of Infrastructure for Pubic Use 5-20
5.6.3. Dedication of Land for Public Use 5-22
5.6.4. Reservation of Land 5-22
5.6.5. Transfer of Land Ownership 5-22
5.6.6. Construction Surety 5-23

DIV. 5.1. GENERAL PROVISIONS

5.1.1. Applicability

A. This Article applies based on the project type proposed, as shown in the table below. For all zoning districts, the Subdivision and Development Plan standards apply as shown in the table below:

		PROJECT TYPE							
STANDARDS		Subdivision	New Construction	Addition	Site Modification	Facade Modification	Change of Use	Renovation	Maintenance and Repair
Subdivision	*Sec. XX.XX*	●	○	○	○	○	○	○	○
Blocks and Access	*Sec. XX.XX*	●	●	○	●	○	○	○	○
Streets	*Sec. XX.XX*	●	●	○	●	○	○	○	○
Utilities	*Sec. XX.XX*	●	●	○	●	○	○	○	○
Fees and Dedications	*Sec. XX.XX*	●	●	○	●	○	○	○	○

KEY: ● = Standards generally apply ○ = Standards do not apply

B. Where a Section applies according to the table above, the project activity must meet all of the applicable requirements in that Section. Where a Section is listed as not applying, no requirements in that Section apply.

C. The general applicability in this Section may be further modified by the specific applicability provisions for each Division in this Article.

D. Project types are defined in *Sec. XX, Project Type*

E. Unless the requirements of this Article are complied with:

1. No person can subdivide land, including adjustment of any boundary, or vacate any subdivision plat;

2. No subdivision plat will be recorded in the City's land records, unless and until it has been approved and signed by the Subdivision Administrator. If a portion of the property that is the subject of a subdivision plat lies within the boundaries of Albemarle County, then no such plat can be recorded unless and until it has also been submitted to and approved by the County;

3. No person can sell or transfer any division of land before a plat has been approved and recorded as being in compliance with *Div. XX, Approval Process*, unless the division was lawfully created prior to the adoption of this Code. Nothing in this paragraph will prevent the recordation of the instrument by which the land is transferred or by which title passes between the parties to the instrument; and

4. The clerk of the Charlottesville Circuit Court will not file or record a plat of a division of land until the plat has been approved as provided in *Div. XX, Approval Process*.

F. For any project requiring a Development Plan, Minor Subdivision, or Major Subdivision review according to

Div. XX, Approval Process, no permit or approval will be issued or granted by any City employee, officer or agent for the construction of any building, structure or improvement upon any land, unless and until the person seeking the permit complies with the requirements of this Article.

G. This Article does not apply to divisions of land resulting from an order entered by a court of equity requiring that land be partitioned, or from the exercise of the power of eminent domain by any public agency.

5.1.2. Plat and Plan Requirements

A. All Subdivisions and Development Plans must meet the standards of this Chapter, and the following other standards outside of this Code:

1. Provisions of the *Code of Virginia § 15.2-2240 through 15.2-2279*;
2. Water Protection, Chapter 10 of the Code of the City of Charlottesville;
3. Fire Prevention Code, Chapter 12 of the Code of the City of Charlottesville;
4. Utilities, Chapter 31 of the Code of the City of Charlottesville;
5. Charlottesville Standards and Design Manual;
6. Charlottesville Streets That Work Plan; and
7. Other applicable laws, ordinances, policies and requirements, including the other standards of this Article.

B. The required documents and drawings for Development Plan, Minor Subdivision, and Major Subdivision review are contained in the Charlottesville Standards and Design Manual.

C. The City maintains a set of standard drawings on file illustrating details of construction and design of streets, stormwater drainage facilities, site improvements and other elements related to the development of land in accordance with this Code. These drawings are contained in the Charlottesville Standards and Design Manual.

5.1.3. Phasing of Public Improvements

A. Public improvements may be constructed in phases, provided a phasing plan is approved as a part of the Development Plan, Minor Subdivision or Major Subdivision review process.

B. Each phase must stand alone, meeting all the requirements of this Code without the need for improvements in later phases.

DIV. 5.2. SUBDIVISION

5.2.1. Lots

A. General Standards

1. Lot standards apply to any divisions, re-divisions and consolidations of land, the vacation of recorded subdivision plats, and the relocation of boundary lines.
2. Lot standards do not apply when lot is to be conveyed to the City for open space, recreation or conservation purposes only, and the plat contains a notation that no building permit will be issued for the lot unless it satisfies the lot requirements of this Division and the building permit is consistent with open space, recreational or conservation uses.
3. No lot can contain peculiarly shaped elongations designed solely to provide the required lot area or width required by the zoning district.
4. Remnants must not be created by the subdivision of land. All existing remnants must be eliminated when land is subdivided or re-subdivided.
5. Side lot lines of each lot must be approximately at right angles or radial to the street lot line, except turnaround terminal points.

B. Lot Frontage

1. A lot must have a frontage on a public or private street that meets the requirements of this Code and the Charlottesville Standards and Design Manual.
2. A sublot is not required to abut a primary street, side street, or alley but must abut a permanent access easement that meets one of the following standards:
    a. Vehicle access easement of at least 10 feet in width for a maximum length of 150', or as approved by the Fire Marshall; or
    b. Pedestrian access easement of at least 6 feet in width.

C. Lot Dimensions

1. A lot must conform to the minimum requirements of the applicable zoning district.
2. A sublot is not required to conform to the dimensional requirement of the applicable zoning district.

5.2.2. Easements

A. Platted easements and deeded easements must be provided in locations and dimensions required by the City in order to:

1. Allow for adequate storm drainage facilities;
2. Allow for proper installation of water and sewer lines, whether immediately proposed or necessary for adequate service in the future;

3. Allow for cross-access between properties;
4. Allow for adequate pedestrian and bicycle access;
5. Allow for adequate right-of-way for street types;
6. Allow for adequate public access; and
7. Allow for adequate slope for roadway construction.

B. Easement widths are specified by the Standards and Design Manual as necessary to accommodate existing and future needs as well as construction and repair of facilities. For drainage easements, the widths must be sufficient to accommodate areas anticipated to be inundated by stormwater.

5.2.3. Street Names

A. The proposed name of a street must be approved by the Zoning Administrator.

B. New street names must not duplicate too closely or approximate the name of any existing street within the City or Ablemarle County.

C. When a new street is planned as a continuation of an existing street, it must have the same name as the existing street.

5.2.4. Subdivision Monuments

A. All boundaries, both exterior and interior, of the original survey for the subdivision must have monuments in accordance with the Standards and Design Manual.

B. No monuments other than those required by this Section will be required to be set before recordation of the final plat or the conveyance of land by reference to plat if the professional engineer or land surveyor includes in their certification on the plat that any additional monuments required by this Section will be set on or before a specified later date.

C. The setting of any monument at any time after recordation of the final plat will be established both at law and in equity, at prorated positions as determined from direct re-measurements between the established monuments of record rather than as precisely stated or shown on the recorded plat.

D. The subdivider will be responsible for resetting any monument on the property that is damaged, disturbed or destroyed during construction of any improvements required by this Code.

5.2.5. Tax Verification

Prior to final approval of a subdivision plat, the City will require the subdivider to produce satisfactory evidence that any delinquent real estate taxes, liens and charges owed to the City have been paid.

DIV. 5.3. BLOCKS AND ACCESS

5.3.1. Intent

A. The intent of the blocks standards is to provide a well-connected street network. Large blocks with limited connectivity discourage walking and contribute to traffic congestion. New streets can be designed to consider and accommodate future development.

B. The intent of the site access standards is to provide safe and convenient vehicular and pedestrian access within developments and between adjacent developments and to lessen traffic congestion by increasing connectivity. Pedestrian, bike, and vehicular access should be safe, direct, and convenient.

5.3.2. Blocks

A. Applicability

1. Block standard requirements apply to any new construction projects requiring a Development Plan or Subdivision Review according to *Div. XX, Approval Process*, meeting any of the following standards:

   a. Projects or zoning lots greater than 2 acres.

   b. Projects or zoning lots greater than 600 feet in any dimension measured parallel or perpendicular to any abutting street.

2. The Zoning Administrator may waive block perimeter and block length requirements for portions of the site that abut and are located within 600 feet of obstructions to the street network that are permanent and inaccessible. Inaccessible obstructions include existing steep slopes in excess of 25%, limited access highways, railroads, utility easements that prohibit streets, and other similar obstructions where pedestrian access to the obstructing land use is unfavorable or prohibited, and the future provision of a complete block is infeasible.

3. The Zoning Administrator may increase maximum block length standards to 1,200 feet for portions of the site that abut and are located within 600 feet of obstructions to the street network that are permanent and accessible. Accessible obstructions include public school campuses, public park land, waterways, stream buffers, cemeteries, and other similar obstructions.

B. Standards

1. Block Perimeter and Length

a. A block must be bound by public or private streets on all sides.

b. No development is permitted on a site having a block perimeter greater than 1,600 feet or a block length greater than 600 feet. Where the existing block perimeter is greater than the maximum allowed block perimeter or block length, projects must provide new streets to comply with the maximum block standards.

c. Where all lots on a block have alley access, the maximum block perimeter and block length may be increased by 25%.

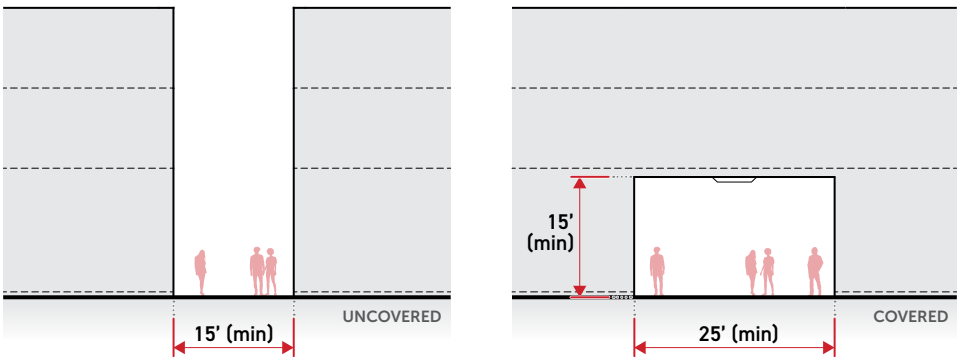
2. Mid-Block Pedestrian Passageways

a. Where the block is bisected by a pedestrian connection that meets the following standards, the maximum block perimeter and block length may be increased by 25%:

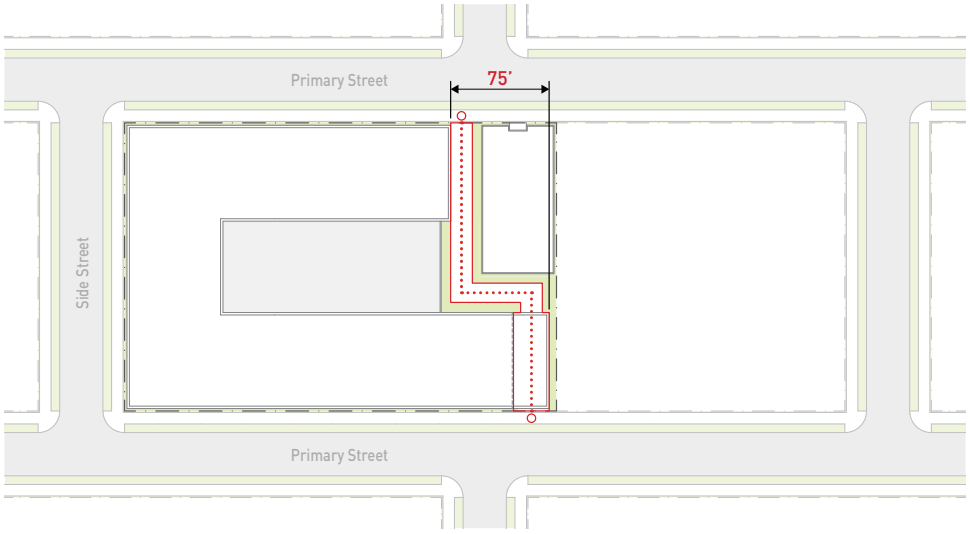
i. The pedestrian passageway must connect from the public sidewalk on the primary street through the lot to a publicly accessible sidewalk, alley, other public way, or easement abutting the opposing lot line.

ii. The pedestrian passageway may be uncovered or covered. Uncovered portions must be a minimum width of 15 feet and covered portions must be a minimum width of 25 feet.

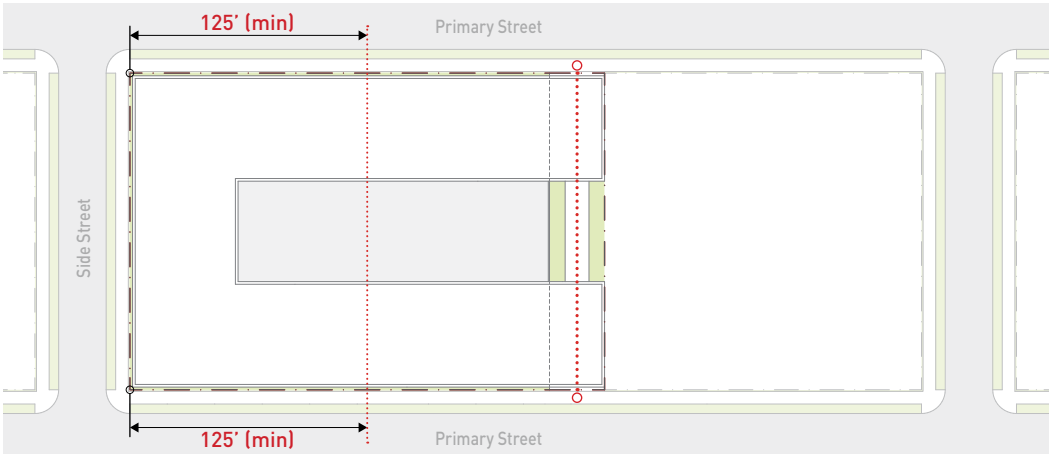
iii. The pedestrian passageway must have a minimum clear height of 15 feet, with the exception of required lighting and trees.



iv. A pedestrian passageway may vary up to 75 feet from the access point on the primary street, measured parallel to the primary street lot line.



v. Access to the pedestrian passageway must be located a minimum of 125 feet from the nearest street intersection, measured along the primary street.



vi. The pedestrian passageway must be physically separated from and uninterrupted by motor vehicle use areas, except where required to cross a drive-aisle. Drive-aisle crossings must be the shortest practical distance.

vii. The pedestrian passageway must be made permanently available to the general public, at no cost, between sunrise and sunset daily, or during the operating hours of the building, whichever would result in a longer period of time. No gates or other barriers may block any portion of the pedestrian passageway from pedestrian access during the required public hours.

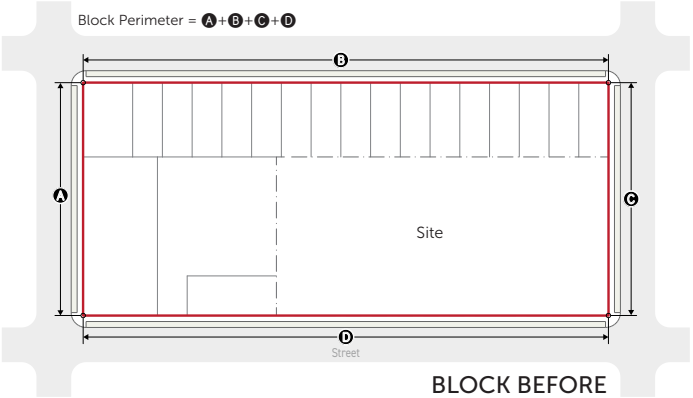
viii. A pedestrian passageway open to the general public before sunrise or after sunset must be illuminated in accordance with *Div. XX, Outdoor Lighting.*

b. Pedestrian passageways may count toward required outdoor amenity space when they meet the requirements of *Sec. XX, Coverage.*

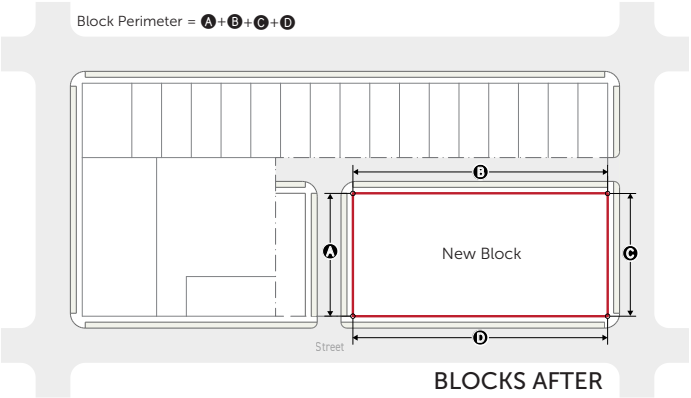
C. Measurement

1. Block Perimeter

Block perimeter is measured along all lot lines abutting a public or private street.



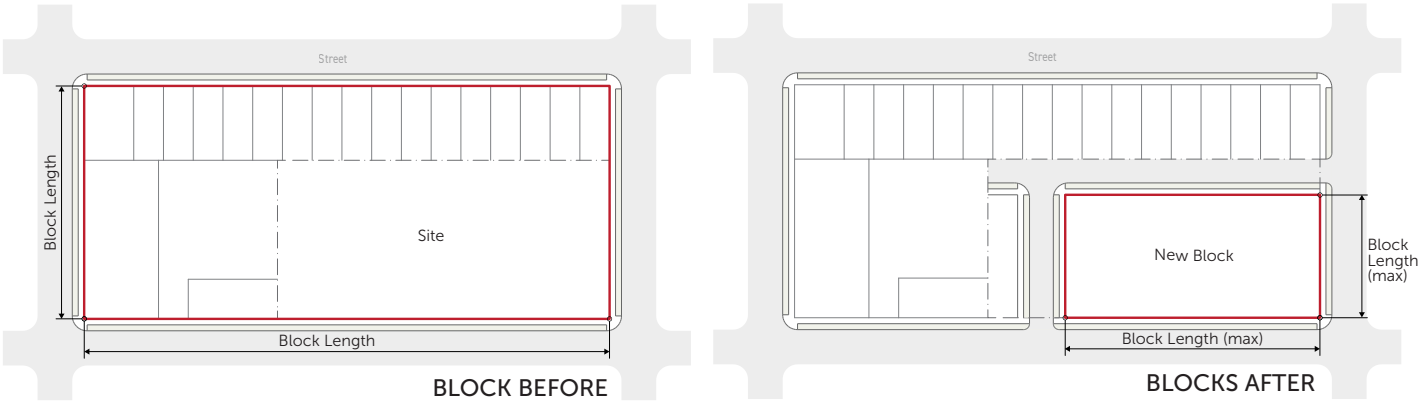
BLOCK BEFORE



BLOCKS AFTER

2. Block Length

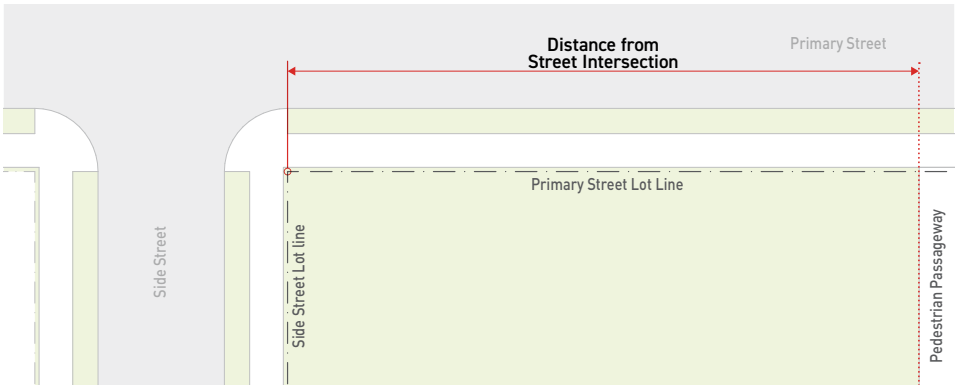
Block length is measured along all lot lines abutting a public or private street along each block face.



3. Pedestrian Passageways

a. Pedestrian passageway width is measured from one edge of the designated passageway to the opposite edge of the passageway perpendicular to the street lot line.

b. Pedestrian passageway distance from street intersection is measured from the point where two street lot lines intersect adjacent to a street corner to the nearest edge of a required pedestrian passageway, measured along the street lot line.



5.3.3. Site Access

A. Applicability

1. Site access requirements apply to any new construction project requiring a Development Plan or Subdivision Review according to *Div. XX, Approval Process.*

2. The Zoning Administrator may waive site access requirements for portions of the site that abut obstructions to the street network that are permanent and inaccessible. Inaccessible obstructions include existing steep slopes in excess of 25%, limited access highways, railroads, utility easements that prohibit access, and other similar obstructions where pedestrian or vehicular access to the obstructing land use is unfavorable or prohibited, and the future provision of a street or cross-access is infeasible.

B. Connectivity

1. Where a new street is required, it must be developed in accordance with the standards in *Div. XX, Streets*, and engineering details in the Charlottesville Standards and Design Manual.

2. All new streets within a project must be extended to the abutting property lines to provide vehicular, bike and pedestrian interconnections to future development.

3. All new streets within a project must be coordinated with other existing or planned streets. New streets must intersect with existing streets at existing intersections, wherever practical, as determined by the Zoning Administrator.

4. Gated streets are not permitted.

C. Cross-Access

All lots abutting a street other than a local street, according to the Streets That Work Plan, must comply with the following standards:

1. Internal vehicular circulation areas must be designated and installed to allow for cross-access between abutting lots, whenever practical, as determined by the Zoning Administrator.

2. When cross-access is waived by the Zoning Administrator, bicycle and pedestrian connections must be provided between abutting properties, whenever practical, as determined by the Zoning Administrator.

3. Property owners who establish cross-access must:

    a. Allow pedestrians and vehicular access to all properties on the same block face as the property owner establishing the cross-access. Pedestrian and vehicular access is contingent upon the granting of reciprocal vehicular and pedestrian access rights to the granting property;

    b. Record an easement allowing cross-access to and from properties served by the cross-access easement;

    c. Record a joint maintenance agreement requiring each property owner to maintain the vehicular and pedestrian access areas on their lot;

    d. Contain a provision prohibiting the erection of fences, walls, and other obstructions that prevent the use of vehicular and pedestrian accessways;

e. Include a statement that the cross-access agreement is conveyed with the land, is binding on all successors, heirs and assigns and that the easement rights are perpetual; and

f. The cross-access easement must be signed by all owners of the granting property.

D. Stub Streets

1. Where land ownership prevents a through street, a street stub must be provided to enable a future through street connection. The street stub must meet the requirements of the Standards and Design Manual and the Fire Code.

2. If a street stub or previously designated cross-access point exists on an abutting parcel, the street network provided by any new development abutting the street stub must connect to the street stub and complete the alignment as a through street wherever practical, as determined by the Zoning Administrator.

DIV. 5.4. STREETS

5.4.1. Intent

A. The intent of this Division is to provide standards for street types and design elements that reflect the character of different areas within the City, as referenced in the Streets That Work Plan and Charlottesville Standards and Design Manual.

B. The regulations implement the transportation goals of the Charlottesville Comprehensive Plan for the safety of all transportation users throughout the City and create a network that promotes an active public realm and creating safe and convenient facilities for pedestrians and bicyclists.

5.4.2. Applicability

A. When a Development Plan, Minor Subdivision, or Major Subdivision proposes the construction of a new street, public or private, the requirements of this Section apply.

B. Existing streets may remain serving existing development in their current configuration; however, they cannot be extended or substantially rebuilt except in conformance with this Section.

5.4.3. General Standards

A. All new streets, including streetscapes, must be developed in accordance with the Streets That Work Plan, dimensional standards in this Section, and engineering details in the Standards and Design Manual.

B. Each street must be configured to conform to the natural topography, to minimize the disturbance of critical slopes and natural drainage areas, and to provide vehicular, bicycle and pedestrian interconnections within the project and existing or future development on adjoining lands, to the extent practical.

C. Streets that do not align with existing streets must have an offset of at least 150 feet between centerlines, unless otherwise approved by the Zoning Administrator.

D. No more than 2 streets can intersect at any point, unless otherwise approved by the Zoning Administrator. Intersections must be laid out to intersect as nearly as possible at right angles.

E. The maximum allowable street grade is 8 percent. In areas with existing steep topography, the Zoning Administrator may allow grades of up to 10 percent.

F. Any new street must be surfaced to the width specified in the Standards and Design Manual, measured from the face of the curb line or edge of pavement. The project developer is required to complete the construction of any new street, including installing the final surface.

G. Streets that terminate temporarily, and that are located more than 300 feet in length from an intersection, or are proposed to serve more than 4 dwelling units, must be provided with a temporary turnaround. The temporary turnaround must be extended to the abutting property line. The temporary turnaround must exist until the street extension is accepted into the City's street system.

H. Alleys with a minimum width of 12 feet may be provided in the rear or side of any lot; however, no dead-end alleys are permitted. When the alley is the principal means of emergency access or access for service vehicles, it must have a minimum width of 20 feet.

I. Reserved strips restricting access from adjoining lands to an existing or future street or alley are not permitted.

J. All drainage improvements must be in accordance with the Standards and Design Manual.

5.4.4. Streetscape Standards

A. General Standards

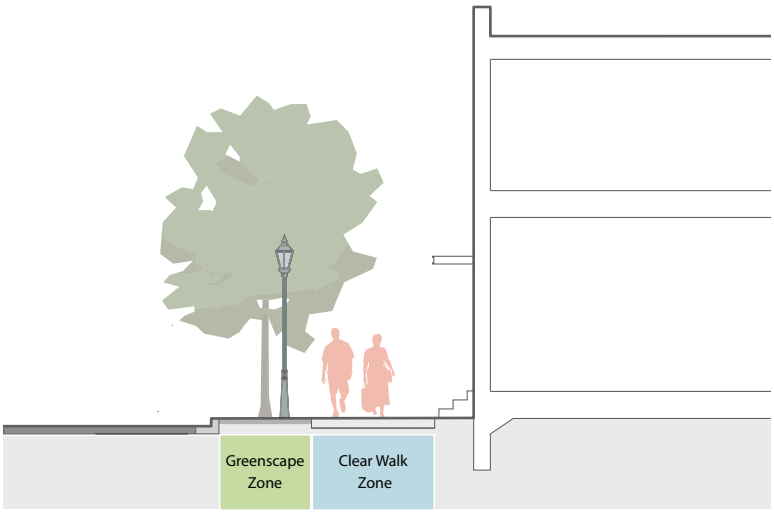
1. Continuous streetscapes must be provided along all existing and future streets in accordance with the following table:

	MINIMUM WIDTH REQUIRED	
STREET CLASSIFICATION	**Clear Walk Zone**	**Greenscape Zone**
Mixed Use A	7′	8′
Mixed Use B	7′	6′
Downtown	6′	8′
Industrial	6′	6′
Neighborhood A	6′	5′
Neighborhood B	6′	5′
Local	6′	5′

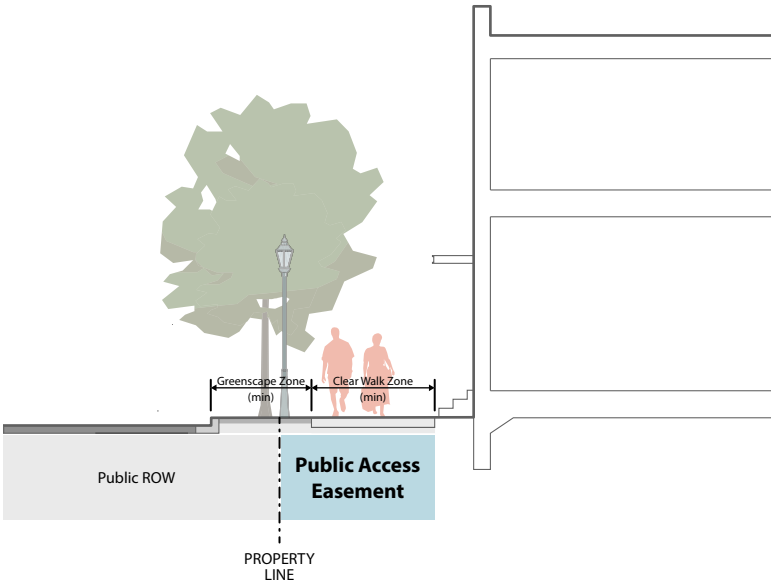
2. Streetscapes must consist of a clear walk zone and a greenscape zone.

   a. The clear walk zone is the area between the street lot line and the greenscape zone. The clear walk zone primarily consists of a sidewalk that is reserved for pedestrian travel.

b. The greenscape zone is the area between the street and the clear walk zone. The greenscape zone generally includes landscaping, street furniture, and utilities.



3. Where there is not enough room in the public right-of-way for the required streetscape, the clear walk zone and greenscape zone must be provided on-site as a permanent public access easement.



4. In areas with existing underground utilities that conflict with the requirements of this Division, the Zoning Administrator may allow for alternative configurations of the clear walk zone and greenscape zone. Alternative configurations may include any of the following:

   a. Meeting the clear walk zone and greenscape zone requirements to the maximum extent possible due to existing physical challenges of the project site; or

   b. Meeting the design standards specified by cross-sections in the Streets That Work Plan for the same street classification.

5. Streetscapes proposed to be accepted for maintenance by the City must be marked on a plat as being "dedicated to the City for public use," and where practical, must be located within the dedicated right-of-way for a public street. Each streetscape proposed to be privately maintained must be conveyed to a homeowners association or other private individual or entity, for ownership and perpetual maintenance, and must be located outside the dedicated right-of-way for a public street.

B. Clear Walk Zone

1. No required clear walk zone may have a horizontal dimension narrower than the minimum width specified by this Division. The clear walk zone must remain clear of obstacles at all times and must be constructed to comply with all City and ADA specifications.
2. Utility poles cannot be located in a clear walk zone.

C. Greenscape Zone

1. No required greenscape zone may have a horizontal dimension narrower than the minimum width specified by this Division.
2. Greenscape trees must be provided in all greenscape zones in accordance with the following standards:
   a. All required greenscape trees and their planting areas must comply with *Sec. XX, Landscape Standards* and tree requirements in the Streets That Work Plan.
   b. Required greenscape trees must be canopy trees and must be planted every 40 feet on-center, on average. Tree spacing may vary to accommodate driveways, utilities, and other potential conflicts, provided no canopy greenscape tree is planted closer than 20 feet from another tree.
   c. When required to be planted under an overhead utility line, required greenscape trees may be understory trees and must be planted every 20 feet on-center, on average. Tree spacing may vary to accommodate driveways, utilities, and other potential conflicts, provided no understory greenscape tree is planted closer than 10 feet from another tree.
   d. The minimum number of greenscape trees required along each street is calculated by dividing the length of the street lot line by the minimum tree spacing.
3. The following elements are permitted in the greenscape zone subject to approval by the Zoning Administrator:
   a. Public transit shelters, benches, trash receptacles, bicycle racks, and residential mailboxes.
   b. Utility poles and boxes, meters, man hole covers, regulatory signs, and fire suppression equipment.
   c. Pedestrian and street lighting.
   d. Landscaping, sidewalks, trees, stormwater elements, and planters.
4. Elements in the greenscape zone must meet spacing and location requirements of the Streets That Work Plan.
5. Elements in the greenscape zone must meet visibility requirements at driveways and intersections in the Standards and Design Manual.

D. Existing Streetscapes

1. In areas with predominant patterns of existing streetscapes that conflict with the requirements of this Division, where a project's primary or side street lot line is less than 100' the Zoning Administrator may allow for streetscapes to be constructed to match existing clear walk zone and greenscape zone configurations.

2. Where existing streetscapes are determined to be in "good condition" by the Zoning Administrator, they may be used to comply with clear walk zone and greenscape zone requirements provided they comply with all standards in this Division.

3. In Residential (R-) zoning districts, when the project fronts on an existing street and adjacent property on either side of the project does not have an existing streetscape, the project developer may choose to contribute to a streetscape fund, maintained and administered by the City, an amount equivalent to the cost of the dedication of land for and the construction of the streetscape on the property.

DIV. 5.5. UTILITIES

5.5.1. Sanitary Sewer and Water Supply

A. Any project that abuts or adjoins a public water or sewer system or main must be connected to that public water or sewer system or main subject to the provisions of the *Code of Virginia § 15.2-2121* and this Division.

B. Any project not abutting a public water or sewer system must be served by individual private wells and septic systems having conventional drainfields and must meet all requirements of the health department and applicable health official, and any applicable zoning regulations. The project developer must submit to the City satisfactory proof that such lots meet the requirements of the health department, as determined by tests or inspections of soil conditions conducted by an officer of the health department.

C. Lots served by public sanitary sewers and public water supply must have an area no less than the minimum lot size contained in applicable zoning district regulations.

D. Public water and sewerage service must be provided to each lot within a project, consistent with the requirements of Chapter 31 of the Charlottesville City Code and the Standards and Design Manual. Such systems must be constructed by the project developer to the point at which they will join public service lines at a property line.

E. Public water and sanitary sewer mains must be located within dedicated public street right-of-way, unless topography renders that impractical. When any such mains must be located on private property, public easements must be dedicated to allow for the placement of the mains and related facilities and perpetual access by the City and its authorized agents. Unless otherwise determined to be necessary by the Director of Public Works, the easements must be at least 20 feet in width.

5.5.2. Natural Gas

Installation of gas mains are governed by the applicable provisions of Chapter 31 of the Charlottesville City Code and the Standards and Design Manual. Where any city-owned gas main or related facilities must be located on private property, a public easement must be dedicated to allow for the placement of the mains and related facilities and perpetual access by the City and its authorized agents.

5.5.3. Stormwater Management and Drainage Facilities

A. Every project must be designed so that construction of buildings, structures, public facilities and other site-related improvements will minimize disturbance of natural drainage areas and critical slopes. Structures necessary to ensure stability of critical slopes must be provided.

B. Every development will be designed to achieve state and local requirements for post-development stormwater management, including measures addressing both the quantity and quality of stormwater, as set forth within Chapter 10 of the Charlottesville City Code and the Standards and Design Manual.

5.5.4. Water for Fire Protection

No Final Plat or Development Plan will be approved by the Zoning Administrator without verification from the City's fire code official that adequate capability exists to provide adequate fire protection to serve the project, including required fire flows. Fire hydrants and distribution systems must be installed and constructed in

accordance with applicable requirements of the USBC and the USFPC; additionally, hydrant locations and fire flow requirements must be as prescribed by Insurance Service Offices (ISO) standards, subject to approval by the Fire Department.

5.5.5. Underground Utilities

All utilities, including but not limited to wires, cables, pipes, conduits and appurtenant equipment for electricity, gas, water, sewer, telephone or similar service, must be located within a project as follows:

A. Each utility must be located, to the extent practicable, in a manner that conforms to the natural topography, minimizes the disturbance of critical slopes and natural drainage areas, and allows vehicular and pedestrian interconnections within the subdivision and existing or future development on adjoining lands.

B. All new utilities must be located underground except the following, which may be located above-ground:

1. Equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, outdoor lighting poles or standards, radio antennae and associated equipment, which is, under accepted utility practices, normally installed aboveground;

2. Meters, service connections, and similar equipment normally attached to the outside wall of a utility customer's premises; and

3. Satellite dishes.

C. No utility easements or facilities, other than those of city-owned and operated utilities, can be located within the right-of-way for any public street, except upon the approval by City Council of a franchise ordinance. If the project developer desires to construct in, on, under, or adjacent to any public streets located in the project any gas, water, sewer or electric light or power works, pipes, wires, fixtures or systems, they must present plans or specifications to the City for approval.

D. Installation of utilities in or adjacent to the right-of-way must be performed in a manner that will not preclude the installation of the required streetscape, including street trees and landscaping.

E. Where appropriate, a project developer must convey common or shared easements to:

1. Franchised cable television operators furnishing cable television, and

2. Public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision.

Such easements must be conveyed by reference on the final plat to a declaration of the terms and conditions of such common or shared easements recorded in the City's land records. All such easements must be located outside of the public street right-of-way, except as otherwise specifically approved by City Council in accordance with the *Code of Virginia § 15.2-2100*.

DIV. 5.6. FEES AND DEDICATIONS

5.6.1. Off-Site Improvement Contributions

A Development Plan, Minor Subdivision, or Major Subdivision may be approved on the condition that the project developer contributes a pro rata share of the cost of the following off-site improvements:

A. Each project developer must pay to the City their pro rata share of the cost of providing reasonable and necessary sewer, water and drainage improvements not located on the property, if such improvements are necessitated or required, at least in part, by the construction or improvement of the project, provided that:

1. No payment will be required until the City establishes a general sewer, water and drainage improvement program for an area having related and common sewer, water and drainage conditions and within which the property is located or the City Council has committed itself by ordinance to the establishment of such a program; and

2. The program complies with the requirements of *Code of Virginia § 15.2-2243*.

B. Each project developer may voluntarily contribute, and the City Council may accept, funds for reasonable and necessary off-site street improvements, the need for which is substantially generated and reasonably required by the construction or improvement of the project. The determination of whether the need for an improvement is substantially generated and reasonably required by the project must be made by City Council. In determining whether the need for an improvement is substantially generated by the project, the City Council must consider whether:

1. The impact of the project would create a threat to the public health, safety or welfare if not addressed by the improvement;

2. The street improvement is identified in the City's capital improvement program;

3. The street improvement is identified in the Comprehensive Plan as a needed or desired improvement; and

4. The need generated is more than an incremental effect that would otherwise result, as determined by annual population growth, vehicular traffic or other relevant criteria.

5.6.2. Dedication of Infrastructure for Pubic Use

A. A project developer must dedicate to the City for public use every easement and right-of-way located within the project, which has constructed or proposed to be constructed any public street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system, or other improvement dedicated for public use and to be maintained by the City or another public agency, as follows:

1. The City Council is not required to compensate the project developer for any dedicated land or improvements.

2. The land and improvements to be dedicated must be set apart on the final plat and must be identified by a note on the plat stating that the land is dedicated for public use.

3. When a project abuts one side of an existing or platted street, the project developer must dedicate at least one-half of the right-of-way necessary to make the street comply with the minimum width required for the street as designated in the Standards and Design Manual.

B. A project developer must dedicate to the City for public use all water and sewerage facilities designed, constructed and approved to be dedicated as public water and sewerage systems, and will require each project developer to establish an easement on the land for such facilities, extending to any abutting property owned by the project developer, if the facilities are required by this Code, as follows:

1. The City Council is not required to compensate the project developer for the dedicated facilities or the establishment of any easement.

2. The facilities to be dedicated and any easement to be established must be specifically identified and set apart on the final plat and must be identified by a note on the plat stating that the facilities are dedicated to, and the easement is established for, the City of Charlottesville.

3. All final plats containing proposed public easements must expressly reference a declaration of the terms and conditions of such public easements recorded with the subdivision plat in the City's land records.

C. A project developer must establish easements for facilities for stormwater management and drainage control, as follows:

1. An easement for all stormwater management facilities and drainage control improvements located on the property must be established whenever the improvement is designed and constructed beyond a street right-of-way or access easement and must extend from all drainage outfalls to an adequate channel that satisfies minimum standards established by the Virginia Department of Environmental Quality or the State Water Control Board, to the boundary of the property.

2. An easement must be established along every natural stream, natural drainage area to be preserved, and every man-made waterway located on the property.

3. The area of each required easement must be sufficient, as determined by the Zoning Administrator, to:

   a. Accommodate the facilities and the drainage characteristics from each drainage outfall from a drainage control;

   b. Allow access to a natural stream or man-made waterway to allow widening, deepening, relocating, improving, or protecting the natural stream or man-made waterway for drainage purposes; and

   c. Meet applicable standards and requirements set forth within Water Protection, Chapter 10 of the Code of the City of Charlottesville and the Design and Standards Manual.

4. Each required easement must include a right of ingress and egress for installation, maintenance, operation, repair and reconstruction of any improvement within the easement. The Zoning Administrator may require that an easement be provided through abutting land under the same ownership as the project.

5. The City Council is not required to compensate the project developer for any easement or any improvements within the easement.

6. All final plats containing proposed public easements must expressly reference a declaration of the terms and conditions of such public easements recorded with the subdivision plat in the City's land records.

7. No easement will be considered part of any required street width.

5.6.3. Dedication of Land for Public Use

A project developer may dedicate to the City any land within the project that is suitable for parks, open space, stormwater management facilities and other public facilities, utilities and other public or semipublic uses, as follows:

A. The City Council is not required to compensate the project developer for the land dedicated if the dedication is a gift, required by a proffer as part of a conditional rezoning, required as a condition of a special use permit, variance or other approval, or if the need for the land is substantially generated by the project. The determination of whether the need for land is substantially generated by the project will be made in the manner prescribed by *Sec. XX, Off-Site Improvement Contributions*.

B. Land dedicated under this Section must be set apart on the final plat and identified by a note on the plat stating that the land is dedicated for public use. The proposed dedication will be subject to review as to consistency with the City's Comprehensive Plan, as required by *Code of Virginia § 15.2-2232*.

C. A project developer's proposed dedication of a stormwater management facility must be reviewed and governed by the provisions of Water Protection, Chapter 10 of the Code of the City of Charlottesville. No such dedication will be accepted unless and until the City receives a financial guarantee, in the form of a bond or like surety, in an amount sufficient for and conditioned upon the construction of such stormwater management facilities in accordance with the standards and requirements set forth within Chapter 10 and the Design and Standards Manual.

5.6.4. Reservation of Land

A project developer may reserve for future dedication to the City a part of the property suitable for parks, schools, open space and other public facilities, utilities and other public or semipublic uses, as follows:

A. The City Council is not required to compensate the project developer for the reservation of land if the dedication is a gift, required by a proffer as part of a conditional rezoning, required as a condition of a special use permit, variance, or other approval, or if the need for the land is substantially generated by the project. The determination of whether the need for land is substantially generated by the project will be made in the manner prescribed by *Sec. XX, Off-Site Improvement Contributions*.

B. Land reserved under this Section must be set apart on the final plat and identified by a note on the plat stating that the land is reserved for future dedication for public use.

C. The project developer may petition the City Council to release a reservation if the land is not used for a public purpose, using the procedure set forth within *Sec. XX, Major Subdivision*.

D. Nothing in this Section precludes land being reserved for a public use which is not included in the Comprehensive Plan, provided the land is acceptable to the City for reservation.

5.6.5. Transfer of Land Ownership

The recording of a final plat will transfer dedicated land and improvements and establish certain easements, as follows:

A. Recordation will operate to transfer, in fee simple, to the City that portion of the land set apart on the plat

and dedicated for public use.

B. Recordation will operate to transfer to the City any easement set apart on the plat and dedicated to public use to create a public right of passage over the property.

C. Recordation will operate to transfer to the City, in fee simple, the water and sewer facilities, and related easements, set apart on the plat and dedicated for public use.

D. Recordation will operate to terminate and extinguish all rights-of-way, easements or other interests of the City in the property not shown on the plat, except that an interest acquired by the City by eminent domain, by purchase for valuable consideration and evidenced by a separate instrument of record, or streets, alleys or easements for public passage subject to the provisions of the *Code of Virginia § 15.2-2271 or 2272*.

E. Recordation will not constitute acceptance of any improvement by the City. Acceptance will occur according to *Sec. XX, Construction Surety* below.

5.6.6. Construction Surety

A. A project developer must either:

1. Complete all site-related improvements required by this Code prior to issuance of the first Certificate of Occupancy for any building within a project, or

2. Execute a written agreement with the City to complete the construction of all such site-related improvements within a period of time set forth within such agreement, relative to a specified plan for phasing of the proposed development.

In either case, prior to issuance of any building permit, and prior to issuance of any permit authorizing any land disturbing activity within the development, the project developer must provide a financial performance guarantee for completion of the site-related improvements. Site-related improvements include any of the following: public street, curb, gutter sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system, or other improvement dedicated for public use and proposed to be maintained by the City or another public agency; and other improvements required by this Code, and to be financed by private funds, for: vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for stormwater management facilities.

B. Upon completion of required site-related improvements, a project developer must submit a Certificate of Completion prepared by a professional engineer or a land surveyor, and the project developer must also submit their own certification that all of the construction costs for the improvements, including those for materials and labor, have been paid.

C. Every final plat approval will be conditioned upon compliance with all of the requirements of this Section. Prior to such final approval, the City must obtain the project developer's written acknowledgment of the obligation and applicable time period for completing construction of the site-related improvements. The obligation to complete construction of all site-related improvements in accordance with City requirements, standards and specifications, and within the applicable time period, must be backed by an adequate performance guarantee, established as follows:

1. A project developer must furnish to the City a financial guarantee, which must be one of the following:

   a. A certified check or cash escrow;

b. A personal, corporate or property bond, with surety satisfactory to the City;

c. A contract for the construction of such facilities and the construction contractor's bond, with like surety; or

d. A bank or savings institution's letter of credit on certain designated funds satisfactory to the City as to the bank or savings institution, the amount, and the form.

Each financial guarantee must be in an amount equal to the estimated cost of construction of the site-related facilities, based on unit prices for new public or private sector construction within the City, plus a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which must not exceed 25% percent of the estimated construction costs. Every financial guarantee will be conditioned upon completion of construction of the site-related improvements in accordance with City ordinances, regulations and standards, within the time period applicable under this Section.

2. If a project developer records a final plat which may be a section of a subdivision as shown on an approved preliminary plat, and furnishes to the governing body at the same time a certified check, cash escrow, bond, or letter of credit to ensure completion of construction of site-related facilities be dedicated for public use within that section, then the subdivider has the right to record the remaining sections shown on the preliminary subdivision plat for a period of five years from the recordation date of the first section, or for such longer period as the City may, at the time of approval of the plat for the first section, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject further to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. The amount of the financial guarantee for site-related improvements in each subsequent section will be established, and such financial guarantee will be provided by the project developer to the City, prior to issuance of any building permit or any other permit authorizing land disturbing activity within that section.

D. The City must provide periodic partial release, and final complete release, of any bond, escrow, letter of credit, or other performance guarantee required by the city under this article, within 30 days after receipt of written notice by the project developer of completion of part or all of any public facilities required to be constructed, unless the Zoning Administrator notifies the project developer in writing, prior to the expiration of the 30-day period, of any grounds preventing the City's approval or acceptance of the facilities and of any specified defects or deficiencies in construction and suggested corrective measures.

1. Requests for partial or final release of performance guarantees must be in writing and accompanied by as-built drawings, certified by a professional engineer licensed by the Commonwealth of Virginia, certifying that construction of the improvements and facilities that are the subject of such performance guarantees is in substantial conformity with the approved final subdivision plat and applicable City standards. An engineer's certification pertaining to construction of street improvements must also certify that on-site typical pavement sections are consistent with the approved design specifications and that standard pavement construction practices were followed.

2. Requests for partial or final release of performance guarantees must be processed by the City in accordance with the requirements of the *Code of Virginia § 15.2-2245*.

3. If the City fails to take written action within the 30-day period on a request for partial release, the request will be deemed approved and a partial release will be granted. No final release will be granted until after

expiration of the thirty-day period and an additional request in writing is sent by certified mail return receipt to the City. The City will act within 10 days of receipt of any such request; if the City fails to act, then the request will be deemed approved and final release will be granted to the project developer.

E. A public improvement will be deemed to be accepted when it is formally accepted by City Council and taken over for operation and maintenance by the City, as evidenced by a resolution of City Council. Nothing in this chapter, including the approval of a final plat, will obligate the City to accept and take over for operation and maintenance any improvements completed by a project developer as required by this Code. Acceptance or approval of an improvement will be made only if the improvement satisfies all applicable statutes, regulations, ordinances, guidelines, design and construction standards for acceptance or approval of the improvement, upon completion of inspections by the City.

F. All site-related improvements required by this Code must be completed at the expense of the project developer, except where the project developer and the City enter into a cost-sharing or reimbursement agreement prior to final plat approval. The City is not obligated to maintain, repair, replace or reconstruct any improvement required by this Code. Nothing in this Code obligates the City to pay any costs arising from any improvement, unless the City has a recorded ownership interest in the improvement, evident from an inspection of the City's land records, or has otherwise agreed in writing to maintain, repair, replace or reconstruct the improvement.

Page Left Intentionally Blank